

BEFORE THE BOARD OF PSYCHOLOGISTS

ORIGINAL

STATE OF IDAHO

In the Matter of the)	
License to Practice)	
Psychology:)	Case No. PSY-03-95-005
)	
MARK D. STEPHENSON)	FINDINGS OF FACT,
License No. Psy-253)	CONCLUSIONS OF LAW,
)	AND ORDER
Respondent.)	
_____)	

The hearing was held in Idaho Falls from April 22, 1996, through April 24, 1996, under the authority of Title 54, Chapter 23, Idaho Code and rules of the Idaho State Board of Psychologist Examiners. The hearing was conducted before the Board of Psychologist examiners, Chairman Dr. Craig Beaver, and members Jerry Dodson and John Radin, by the Board's duly appointed hearing officer, Wes L. Scrivner, Attorney at Law. Respondent was present, and represented by Dora Levin, Attorney at Law, and the State was represented by Nicole McKay, Deputy Attorney General.

The hearing was stenographically recorded and transcripts are available at the expense of the requesting party.

ISSUES PRESENTED

At issue is the treatment provided to three female patients who initiated complaints to the Board. The State filed a complaint against respondent, alleging that respondent violated the American Psychological Association (APA) ethical standards

in his treatment of the three different female patients, specifically:

- APA Standard 4.02(a). Informed Consent to Therapy.
- APA Standard 1.07(a). Describing the Nature and Results of Psychological Services.
- APA Standard 4.01(a). Structuring the Relationship.
- APA Standard 1.23(a). Documentation of Professional and Scientific Work.
- APA Standard 1.24. Records and Data.
- APA Standard 1.04(c). Boundaries of Competence
- APA Standard 1.14. Avoiding Harm.
- APA Standard 1.06. Basis for Scientific and Professional Judgments
- APA Standard 4.01(d). Structuring the Relationship.
- APA Standard 1.15. Misuse of Psychologists' Influence.
- APA Standard 1.17(a). Multiple Relationships.
- APA Standard 2.02. Competence and Appropriate Use of Assessments and Interventions.

Pursuant to the stipulation of the parties, the three patients and their families will be referred to in the record by their initials, or first name and initial of their last name, to preserve the confidentiality of the patients. The patient's names, for purposes of the record, are HB and her husband Tommy B; VN and her husband Ron N; and BT and her husband Golden T.

EVIDENCE CONSIDERED

Documentary evidence:

For the Board, pursuant to stipulation of all parties:

Exhibit 1, Eastern Idaho Regional Medical Center (EIRMC) records.

For the State:

Exhibits 1 through 15, 17, and 18.

For the Respondent:

Exhibits A through G, and I.

Witnesses:

For the State:

HB

Tommy B

VN

Ron N

Sandy D

David D

BT

Golden T

James L. Oyler, Ph. D.

For the Respondent:

Ronald L. Zohner, M.D.

Respondent

Christopher Lawson

Liša Bateman

Andrea Eskelson

FINDINGS OF FACT

The Respondent was born on March 12, 1954, in Boise, Idaho and received his license for the practice of clinical psychology from the Bureau of Occupational Licenses in 1993. Respondent obtained a Bachelor's of Science degree in Psychology and Statistics in 1983. Respondent obtained his Ph.D. from the University of

Nebraska in 1988. Respondent received no training in hypnosis at the University of Nebraska, but received certification as a hypnotherapist from the Society of Clinical Hypnosis in 1994.

Respondent was married for seventeen years, and has five children aged from seven to nineteen. The younger children live with their mother, respondent's ex-wife. Respondent was remarried two years ago, and his current wife has seven children of her own, five of whom reside with respondent and his wife.

Following his receipt of his doctorate, respondent was employed by Eastern Idaho Regional Medical Center (EIRMC) in the Behavioral Health Center. At that time, he wasn't licensed, but continued that employment after becoming licensed. He then began a private practice in his office located at EIRMC, and saw his own patients in addition to his employment at EIRMC.

After a number of disgruntled family members complained to EIRMC about respondent's treatment of some of his patients, including two of the complainants in this case, he was fired. Respondent received an outpouring of support from the medical staff at EIRMC as evidenced by a letter to the administrator taking issue with Respondent's dismissal.

Since he was fired from EIRMC, the respondent has had significant financial problems. Respondent has filed bankruptcy, and both he and his current wife have completed a certified nursing assistant course in order to qualify their home for a residential program which they hope will provide supplemental income. Respondent was divorced from his prior spouse in 1994. Currently, respondent receives patients in his private practice approximately one-half day per week. He does some

assessments for the Public Defender's office in Rexburg and performs disability evaluations for the Social Security Administration. The respondent desires to continue working as a psychologist. The evidence reflects that respondent is a caring and empathetic counselor.

At the heart of the controversy for patient BT is the process developed by Respondent toward treating patients, which is described in a paper written by the respondent entitled *Overcoming The "Structure Of Control": Agency, Energy, False Memories, And The Fallacy Of "Deprogramming"*. This article was written in the respondent's own words and was designed for therapists working with "ritual abuse" and "other mind control victims." *Exhibit 10, page 2*. Respondent theorized that certain intractable problems occur in these people, that there should be a way for people to become free of these problems, and he hypothesized a sort of cognitive structure that is the center or controlling part of these recurring problems. Respondent's theory as expressed in his paper and his current theory is that traditional "deprogramming" practices are unsuccessful and "the correct method of destroying this structure is through utilizing the person's own agency and cognitive energy".

Respondent explained to Dr. Brown, the psychologist who performed a psychological evaluation on respondent, that the structure in his theory "is a naturally occurring mechanism that accounts for bizarre stuff in therapy and may account for other bizarre situations, such as UFO abductions or feelings of satanic ritual abuse."

The respondent's theory is that the structure can control the individual, and can be accessed by external parties to exercise control over the individual. In the process of removing the structure from patients, the respondent inquires of the patient

whether there exists a controlling structure which exerts itself against the patient, and after the patient exhibits an affirmative response (by raising a finger), respondent begins moving the patient toward the discovery of the controlling structure. Utilizing the process with the complainants in this case, the respondent would have them "relax" in a recliner chair and, through a hypnotic technique known as ideomotor signalling, the patients would respond to questions with either the "yes" finger, the "no" finger or the "unsure" finger.

The first Agency Retrieval Process paper written by respondent was in October 1993, and the second in 1994. Prior to the first draft, respondent claimed to have worked with 46 patients, yet none of them had given informed consents in research and counseling, as respondent didn't think informed consent necessary. Some of the people who underwent this process were not his patients, but were only one-time visitors. Respondent does not consider this "guided imagery" to be counseling in the true sense, but would term it an "intervention".

Respondent considers his use of the Agency Retrieval Process as a type of guided imagery and maintains that there is nothing intrusive or suggestive about it. Respondent acknowledges that he was not taught this process and that it is an innovation and is experimental. However, respondent states that guided imagery is routine and not disruptive. Respondent acknowledges that the Agency Retrieval Process is not a therapy but is an intervention and is within the bounds of guided imagery and hypnotherapy. Dr. Brown wrote that he considers respondent's Agency Retrieval Process an "overvalued idea," which is defined in the *Diagnostic and Statistical Manual of Mental Disorders*, 4th Ed. (DSM-IV) as "an unreasonable and

sustained belief that is maintained with less than delusional intensity (i.e., the person is able to acknowledge the possibility that the belief may not be true)".

Dr. Brown indicated that the agency retrieval process is not shared by other psychologists, and while it certainly deserves further investigation, its application with patients should be approached skeptically. Respondent's notion that locating "the pattern" of abuse or structure in two hours, destroying the image in another session, and speeding up therapy in almost all patients with few side effects is, in the words of Dr. Brown, "unbelievable." Respondent seems to believe that his technique is an actual discovery of the true fountain of abusive thoughts.

There is a sharp dispute between the testimony of complainants and respondent as to whether respondent's procedure in therapy suggests or pre-supposes the outcome of questions, especially concerning memories of past sexual and/or satanic abuse. Complainants HB and VN say that respondent's technique allows him to control the information which they relate during therapy, both by the way questions are asked and in the way the patient is directed to respond. Respondent denies suggesting any answers to the complainants.

The complainants HB and VN allege that respondent used his memory retrieval process to retrieve memories involving satanic and sexual abuse which they never had prior to seeing respondent. They allege these memories were false because neither HB nor VN had any recollection of any satanic abuse prior to seeing the respondent, nor did their families recall any previous claims of sexual or satanic abuse by any family members.

HB sought respondent's help in dealing with depression, and related having

been sexually abused by teenage boys when she was a child. VN sought counseling services from respondent for bulimia and depression, and related having been raped when she was 14 years old. With both patients, only after undergoing the memory retrieval process were issues of sexual abuse by family members and satanic ritual abuse discussed.

Respondent denies implanting or suggesting that HB and VN's families sexually or satanically abused them, but the evidence is not in dispute on this issue: neither patient had any independent recollection or presented any evidence to respondent when they first saw respondent. These memories or issues did not arise until after the counseling process had begun. Respondent testified that each patient had supplied information concerning the families' satanic and sexual abuse while in a "relaxed" state.

The specific treatment for each of the three complaining patients will be discussed separately.

Treatment of patient HB

HB is a married woman with four children and is currently a college student. HB had never received professional counseling prior to undergoing 11 therapy sessions with respondent in 1993. Respondent was recommended by both a friend and someone at Help Incorporated, an organization in Idaho Falls that assists individuals who have been sexually abused.

HB consulted respondent for help dealing with depression and memories of sexual abuse by some teenage boys when she was 5 or 6 years old. She had

previously attended couples' therapy with her husband. HB initially met with respondent on March 16, 1993, at his office. She was not asked to fill out any questionnaire, there was no inquiry about her mental or physical history, and no request for information concerning current or prior medication for depression, prior hospitalizations, or prior therapy. Respondent conducted no psychological testing and gathered no information on personal data such as marital status or children. There is no evidence in HB's file of a treatment plan. Respondent didn't ask, and HB didn't tell him about any other sexual abuse other than that of the teenage boys.

Respondent wanted to start hypnotherapy work since, in the words of respondent, HB "had bad news buried". Respondent had HB recline in chair to get the memories "up". HB refused to participate in hypnotherapy at the initial session.

The next session was on March 23, 1993, and respondent initiated hypnotherapy, and again HB was nervous, and asked whether respondent's other patients were so nervous. Respondent indicated that she acted like other patients who had been abused. There is no evidence in respondent's file that HB consented to hypnotherapy, nor that respondent explained any of the risks or benefits. Respondent hypnotized HB at this session and after that office visit HB was quite worried about whether she had something "buried", and she wondered if something worse had happened to her that she couldn't remember.

The third session was held April 2, 1993, and respondent permitted HB to be accompanied by a friend. However, respondent would not permit HB's husband, Tommy B, to attend two of the early counseling sessions. Without providing any

explanation, respondent had indicated to him that his attendance wouldn't be a good idea.

At this session, in a dim room, respondent talked to HB's "subconscious" and, tapping her hand, elicited responses by having HB raise different fingers, with one designated as the "no" finger, one the "yes" and another "unsure". Respondent asked if various people, such as HB's parents, grandfather, and others were involved in the past abuse. If a "yes" finger raised, respondent would pursue answers and ask HB to let the "walls come down".

When respondent got "yes" responses to questions about HB's father, she became worried about her father, and whether she might have been abused by him, as well as by the teenage boys, when she was a child. HB testified that she "broke", said that her father had abused her, and began crying. HB stated that she has no idea why she said it, as she had no idea that her father ever abused her. Nothing was discussed during this session as to how her father may have been involved, or why this memory would surface now, and HB hoped that respondent would help deal with this revelation.

After this session, HB focused on her father, not the boys, and on her unconscious. HB said that she cried all week, was nervous, couldn't talk to her father, and didn't speak with him throughout the remainder of the therapy sessions. HB avoided contact with her family after the third session, although she admits that she never told respondent that she was doing so.

The fourth session was April 7, 1993. HB's friend, Annie, accompanied her,

but HB doesn't recall this session clearly, except that she had recently recalled a dream she had 10 years before which involved a little boy, and which had been very upsetting to her at that time. In the fourth session she wondered what role the dream played in her depression. She "thought everything was compounding and getting worse." Respondent asked HB to focus on what had happened to the little boy in her dream, and asked her what it was that the boy had survived.

The fifth session was held on April 13, 1993. Respondent asked if HB's father had abused her, and "finger answered yes", which upset her considerably.

HB said that respondent told her that she had a well patterned multiple personality, she had been abused by her family, and that she needed to get going in the counseling process. The issue of the teenage boys never came up, and no coping skills were offered. HB complained of anxiety attacks, and felt respondent was offering her no way to cope with it. She suffered from nausea and insomnia, and respondent declined to help her with it, indicating that it would set them back in therapy.

HB discussed her worries with one of her church leaders, who suggested that she obtain a second opinion, as other people had been diagnosed by respondent with this similar problem. HB saw another counselor who apparently told her to return to respondent, which she did. HB testified that respondent wanted her to work with her dreams, and write down both her thoughts and what the voices were saying to her, although she testified that, prior to that point, she had never before heard voices.

The sixth session was held on April 21, 1993, where respondent was direct in

his questions about abuse and whether anyone would want to come forth. He asked about Satanism, which HB had never mentioned. HB asked respondent why he would ask, and he said that the truth needed to come out. She was very scared after the Satanism topic was suggested, and she didn't think then she had been satanically abused, but later she started thinking that she may have been. Respondent said her father's abuse was "peanuts" compared to Satanism, and HB's understanding was that respondent was of the opinion that she had been satanically abused.

Following the sixth session, HB began dreaming about a robed figure wiping blood off a table, and HB discussed this dream with respondent. Later, in another dream, she saw some of her family members, and respondent told her the dream was a *memory*, which she found frightening. After that point, HB felt suicidal whenever the Satanism topic came up. Respondent asked if HB, her husband, or others were being threatened (presumed by HB to mean by the occult). She answered "yes" immediately, but gave automatic and consistent "yes" responses to any inquiries concerning Satanism. Respondent advised HB to protect herself from her family, and he discouraged her from having any contact with her family. Throughout the counseling, HB hid in the house from family members when they visited. She started to believe that she had been sexually and satanically abused.

Respondent wanted HB to write her parents a note accusing them of sexual abuse, but this wasn't done, and respondent wanted HB to work on a password to stop satanic abuse thoughts.

HB went to see her family. The visit didn't seem quite right, as the family

members were glad to see her, which was inconsistent with what she expected after the revelations from therapy. When she returned to respondent and told him she had visited her family, he said he bet it was threatening, which HB denied. This was HB's the last counseling session with respondent.

HB recalls that respondent took notes yellow legal pads. The notes reflected in Exhibit 2 are on ruled notebook paper, and HB denies that Exhibit 2 represents respondent's notes. She also denies the April 7, 1993, note concerning a lake, and another concerning the Fourth of July. There was conflicting testimony concerning the authenticity of respondent's office notes. HB and another complainant specifically recalled respondent taking notes on yellow legal pads, but another witness recalls respondent taking notes on ruled notebook paper.

HB still experiences anxiety attacks, thinks that she has been spiritually damaged, and has not had any further therapy. She is close to her parents now, she feels guilty about what she has "done to them", and she feels that her relationship with them has been adversely affected. As a result of her anxiety and upset, HB and her husband came close to divorce during her sessions with respondent.

The record is clear that respondent never addressed the issue of her abuse by the boys when HB was a child, and she feels that she has to deal with that in addition to other issues which, she feels, were created by therapy with respondent.

There is no evidence that respondent ever obtained HB's consent to deal with satanic abuse issues.

HB has filed a civil action against respondent, but denies that her primary

motive is monetary gain. She testified that she doesn't want someone else to be harmed, as she became suicidal during the course of her therapy. Her complaint with BOL was independent of VN, another patient.

At the initial consultation, respondent did not explain the cost of the sessions, billing procedures, or client-therapist privilege. HB recalls signing nothing, and was not given information about how to contact respondent in an emergency. In therapy sessions, respondent never asked HB about suicidal ideations, plans, intentions, or past intentions. Respondent testified that he was not surprised HB had suicidal thoughts, but he doesn't recall inquiring whether HB had such thoughts. Respondent never asked about other support that might be available to her, such as friends, family, church, and so forth. He was aware that she was attending group session at Help Incorporated, although he never inquired about it. HB never signed any release with Help Incorporated that would allow the release of information to respondent.

Even though respondent told HB she had a diagnosis of Multiple Personality Disorder (MPD), he didn't explain to her what it involved in terms of care or treatment.

Respondent never discussed Post Traumatic Stress Disorder (PTSD) with HB, although he billed her services under a DSM III-R Code for PTSD. In terms of obtaining enough information to support a differential diagnosis for PTSD, respondent never asked about intrusive thoughts from sexual abuse, or anything reminding her about it. He never asked about avoidance due to abuse incidents; any change of activities; changes with other people; whether there were any changes in her range of emotions; sleeping difficulty; irritability or temper outbursts; difficulty concentrating;

difficultly functioning with friends or family; or difficulty functioning at home or at school.

Tommy B, HB's husband of 10 years, testified. As indicated above, he tried to attend counseling sessions on two occasions, but respondent said that wasn't best, and so Tommy B gave up in his attempts to attend.

Tommy B indicated that he noticed changes in HB during her counseling sessions with respondent. She became fitful and suicidal, exhibited physical symptoms, and said that she was learning stuff that was scaring her. She began avoiding everyone, even people who would come to the door, and became a "hermit". Tommy B observed HB's anxiety attacks and shortness of breath. He even contemplated emergency transfer with his employer, the US Navy, since he became fearful for HB's emotional well-being and safety after the issue of satanic abuse surfaced. He began worrying about leaving HB alone, and he hid his pistol. Tommy B stated that counseling negatively impacted the family and HB's health. She continues to suffer, now becomes stressed more easily, had never been that bad before, and has problems functioning on a daily basis.

Treatment of patient VN

VN has been married for six years, has a five year old son, and has worked in a gas station for the past two years.

She had been raped twice at the age of fourteen, was depressed, and wanted to deal with the rape and place the blame where it belonged. VN had also been diagnosed with bulimia, and sought help to deal with that condition.

Prior to counseling with respondent, VN had no recollection of ever having been abused as a child, either sexually or satanically.

VN attended counseling with respondent from March, 1993, until August, 1993.

At the first session, VN and her husband Ron N saw respondent and discussed the rapes and her depression. There was no reference to counseling for the rapes in the notes, and respondent testified that it was just a piece of "historical" information. No real physical or mental health history was taken, but respondent was told of a prior course on Prozac. The history was very limited, although VN was asked about suicidal tendencies.

Hypnosis began immediately, although the therapy was not explained, nor were alternatives discussed, and no informed consent was obtained. The mechanics of the procedure involved the patient raising the index finger for "yes," the middle one for "don't know," and the ring finger for "no". Respondent would ask questions until "yes" was elicited, then he would move on. VN always denied childhood molestations, but respondent would keep asking. VN didn't believe she was molested as a child. Respondent didn't discuss her obesity, or her rape as a teenager; only childhood molestations. VN testified that respondent suggested who the molesters might be, and there is nothing in respondent's notes to the contrary.

At end of the first session, it isn't clear whether VN believed she had been molested as child, but she was distressed about the possibility of past abuse, possibly by her grandfather. VN then discussed this with her mother.

At the second session, VN underwent hypnosis, having first discussed with respondent her conversation with her mother concerning VN's grandfather. At the conclusion of the second session, respondent said that VN was sexually abused by her grandfather and, while she had no memories of the abuse, VN accepted the conclusion. This was very troubling to her, but respondent said that "we don't make up our memories." Respondent didn't provide any assistance in dealing with her discomfort.

Ultimately, VN indicated her grandfather had abused her. Respondent persisted until she answered "yes" to questions about abuse. VN testified that her responses to the finger tapping were partly a result of the pressure she felt to answer yes.

Respondent told her that her grandparents had been involved in a satanic cult. VN had a dream involving blood, and respondent suggested there may have been satanic abuse.

VN claims that respondent told her that he was a survivor of a satanic cult, and was therefore an expert. Respondent denied this.

Respondent asked VN who she could trust, and she said that she could trust her father. Then, under hypnosis, respondent questioned VN about her father and she answered "yes" after several denials that her father had sexually abused her. This upset VN, but respondent would say calming words and then continue.

Respondent would ask repetitive, suggestive questions under hypnosis.

Respondent advised VN that the abuse was continuing. At that point, she was very upset, had trouble sleeping, and felt that her entire life had been a lie. VN asked

for help with her anxiety, but respondent refused to help her deal with it.

VN repeatedly asked if the abuse was true, and respondent replied that we don't make up our memories.

Respondent informed VN she had multiple personalities that needed to be dealt with.

VN met with her father, David D, who denied that he had harmed her and asked VN whether she really believed that he had sexually abused her. David D promised to go through the counseling process with VN.

At a meeting with VN and her parents, David D and Sandy D, respondent indicated that they might also have multiple personalities.

Respondent told VN that satanic and sexual abuse was "epidemic" in Idaho falls.

VN testified that she became suicidal, that she told respondent about her suicidal ideations, and that he didn't act concerned.

At a subsequent meeting, respondent told VN that her father was too nice of a guy to have abused her, and they had gotten off track. VN felt that she lied earlier about her father, which confused her, as respondent had always told that her memories were true.

At a later session, respondent was going to, in the words of VN, work on a "new therapy plan" that he had been formulating. This was to deal with "an object" that had been planted in her subconscious. The details of the new plan were not discussed, and respondent provided no information about the "object" that needed to

be removed from VN's subconscious. VN agreed to participate, and the process continued for a couple of sessions. A three hour session was discussed, and respondent told her if they couldn't remove the object in next session, God would withhold his blessings and Satan would have a bigger hold on her spirit. She didn't make the appointment for the session and terminated the counseling relationship. She still believed that she had been molested by her grandparents, but not by her father. Now, VN doesn't believe any abuse was inflicted by her grandparents.

VN said that respondent took progress notes, "a lot", and states the notes written on long yellow pads, where respondent would "flip the page over", unlike with ruled notebook paper. VN said that, at the beginning of each session, respondent would read over his notes from their prior session. VN is certain that the notes comprising Exhibit 5 were not taken during her counseling sessions. Ron N, VN's husband, observed respondent take extensive notes during the sessions on long yellow legal pads. Ron N also denies that Exhibit 5 represents respondent's progress notes. As indicated in the discussion of HB, there was considerable controversy concerning respondent's notes in that case, and as well as here. VN recalls a session conducted June 10, and Exhibit 18 is an appointment card from respondent for that date. Although respondent's notes don't show a June 10 meeting, VN denies cancelling the appointment. There is no chart note from that date. Exhibit 5, the respondent's notes, are apparently written in same pen from March through August, and are all on the same kind of notebook paper, which is different from the chart notes for HB. The questions raised about the notes cannot be answered with any

certainty.

VN feels that she suffered psychological harm from the counseling. She cannot recall much about raising her son during the counseling. She experienced panic and anxiety attacks and worsened depression during the period she received counseling, but feels that she is getting better now. VN denies any physical harm from the counseling.

VN said that her relationship with her husband was very close before she began the counseling sessions with respondent, then the marital relationship deteriorated during counseling. VN then went to another professional for marital counseling who urged her to file a complaint against respondent.

Respondent didn't deal with the issue of the VN having been raped twice at age 14. Respondent never gave another diagnosis, other than Multiple Personality Disorder, despite the fact that he billed under the diagnosis of PTSD.

There was no discussion about the course of treatment in terms of time. Respondent didn't respond to VN's suicidal concerns, never asked if she had a plan for suicide, and didn't discuss emergency contact numbers.

Respondent told her VN that she had Multiple Personality Disorder and multiple personalities, "several" of which needed to be dealt with, but the course and scope of treatment wasn't discussed.

PTSD was never discussed with VN, and respondent never asked about recurring thoughts (other than dreams), even though VN brought up recurring thoughts of the rape incidents. Respondent never asked her if she re-lived the experience of her

rapes. Respondent did ask her if she avoided certain situations. VN's withdrawal from her friends, respondent, and her family was discussed. VN raised issues of sleep problems and anger, but those topics were only dealt with summarily. Respondent did not ask VN if she had trouble concentrating.

Concerning the "new treatment strategy", respondent didn't explain its risks, but he did explain that the benefit would be that "God could send his blessings." The treatment was initiated, but never progressed to the stage where the "object" was purged.

VN's husband, Ron N, attended the first, second and fourth sessions with VN. Her major concerns were the rapes and her weight problem. Ron N understood respondent to be performing hypnotherapy, and he recalls the finger tapping process.

Sandy D, VN's mother, became aware that VN was going to respondent for professional counseling. After the first session, VN told Sandy D that she, VN, had been sexually abused. Although VN had no recollection of being abused prior to seeing respondent, she and Sandy D reviewed family pictures together to see if VN recognized any individual who may have abused her, but no one looked familiar. After VN left, Sandy D recalled that her sister had been abused by their father (VN's grandfather), so Sandy D called VN and told her, but said that she hoped he wasn't VN's molester. VN went to the next counseling session, and then reported back to Sandy D that VN's grandfather had molested her when she was three. Thereupon Sandy D called her siblings and related VN's concerns. None of Sandy's siblings had similar experiences.

In one of the first sessions, respondent's first question was whether "VN had ever been molested", as though respondent was asking a third person. In the second session, VN's maternal grandfather's name came out during hypnotherapy. After the specter of VN's father having sexual relations arose during counseling, Ron N attended a family meeting with VN, her parents, and respondent. During this meeting, respondent mentioned VN's "split personalities," and that VN and her father had had sexual relations.

Ron N thinks that the therapy affected VN a "whole bunch" negatively. He thinks her depression worsened, she had anxiety attacks, which she never had before, and she portrayed suicidal ideations never seen before the counseling.

VN then reported to Sandy that respondent advised her that there were probably more abusers in her history. VN told other relatives that her father, David D, had abused her, which got back to her father, who then called Sandy D and said it looked like he was now implicated in the abuse. VN's parents, Sandy D and David D, and their other two daughters went to confront VN, who said that she felt in her heart that her father hadn't abused her, but that respondent told her that she doesn't make up memories. Sandy D then made an appointment for herself, David D, VN and Ron N to meet with respondent. At that meeting respondent told Sandy D that VN had definitely been sexually abused, and that people don't make up their memories.

VN had told family members that she and her father had multiple personalities and had been meeting secretly. Respondent said the abuse with VN's father and VN ongoing. Respondent told Sandy D that she had been sexually abused and therefore

could have multiple personalities and know it. After providing this possible diagnosis, respondent suggested no treatment alternatives. Sandy D questioned respondent about a polygraph test, but respondent said it wouldn't have any value for a person with Multiple Personality Disorder.

Respondent later told VN that, after having met her father, respondent didn't think that VN was abused by him. Respondent never contacted David D to reprocess the issue, apologize, or offer any amends for having made such a damning disclosure.

Treatment of patient BT

BT is a 34 year old woman who has been married for 15 years, and has 2 children. She was respondent's patient for approximately five years. Respondent benevolently provided all of his office visit services to BT without charge after he left the hospital.

BT's medical, psychiatric, and psychological history is complex. She has a long history of emotional problems, having seen several mental health care providers, and has been hospitalized for mental disorders on several occasions, more than once for attempted suicide. She was previously diagnosed with bulimia and Multiple Personality Disorder.

Dr. Ron Zohner, a psychiatrist with a private practice in Idaho Falls, is also the Psychiatric Director of the child and adolescent unit at EIRMC. He treated BT when she was both an in- and an outpatient. He first met BT in 1991 while she was an inpatient at EIRMC. His diagnosis included mood instability, depression, dissociative disorder, and MPD. Dr. Zohner recalls approximately four hospitalizations in 1991,

and perhaps one in 1992, when he was her admitting and treating physician. Treatment was psychopharmacological. Respondent was treating BT during that period as well, and he collaborated with Dr. Zohner. BT's medications included Tegretol and Atavan. Tegretol is used as a mood stabilizer, although its primary use is as an anti-seizure medicine. Atavan is a fast-acting anti-anxiety drug that worked well for BT.

The last time Dr. Zohner saw BT in the hospital was in late 1991, and he saw her periodically in follow up for medication. He last saw her in August, 1995, for medication, and he thought she seemed to have been doing better.

BT was diagnosed with temporal lobe seizures in 1991, and a course of Tegretol was begun. Subsequently, there was an improvement in how BT dealt with rage, and her moods stabilized.

BT met respondent in April, 1990, at a group therapy session at EIRMC, while she was an inpatient in the behavioral unit.

The group was organized to help the patients with anger control, and respondent indicated he thought he could help her. Treatment was initiated at EIRMC, including a five point restraint for anger therapy. Later, respondent assumed the role of treating psychologist when she was an outpatient.

Respondent's initial treatment of BT was for MPD; a variety of somatic problems including headaches, stomach distress, aches and pains in muscles and joints; and unusual sensory experiences. BT disclosed her prior treatment and respondent later talked with one provider to get a synopsis of the provider's experience with BT, when

he had worked on the issues of her eating disorder and dissociation.

Initially, BT was very skeptical of her treatment with respondent. Respondent testified that BT's was a polyfragmented personality, and the problem was to keep her from moving from one alter personality to alter. The switching from one state to the other was very rapid, and although Tegretol helps stabilize this condition, respondent stated that he didn't use hypnotherapy in the usual sense. Whenever BT sat down, she would speak through whichever personality was there. He did use ideomotor signalling (which he described as a method of exploration; a hypnotic technique where, once a person is relaxed, designating different fingers for different answers, the patient responds in deeper levels of awareness by responding with one of the fingers). This was used occasionally with BT to facilitate accessing different personality states. With BT, respondent would touch her hand in a "deepening" process, where he was directing a question to a deeper level. Respondent denies tapping her hand in any manner to suggest the answer. However, respondent admits that with BT's diagnosis of Borderline Personality Disorder she was particularly sensitive to suggestive techniques.

Satanism was originally mentioned by BT. She related horrendous scenes of abuse that she expanded on over time. The satanic theme was persistent and pervasive with BT, and she had books on the subject in her home, which respondent said had been purchased by one of the alter personalities.

In discussing this case with Dr. Johnson, respondent doesn't recall their discussing Satanism. There is nothing in respondent's records documenting any

discussions with Dr. Johnson.

BT was very fearful of every holiday, some of which respondent couldn't ascribe any particular meaning to, and BT was especially sensitive to Valentine's Day, the Spring Equinox, Christmas, Halloween, and her husband's birthday.

Around the sensitive holidays, BT's condition would deteriorate; she would discuss self-mutilation, display dread, and express suicidal ideations. There is nothing in respondent's office notes documenting any suicidal ideations, although respondent admitted that at times BT was suicidal.

Respondent's wife (at that time; now his ex-wife) became friends with BT during one hospitalization. It is not clear why the respondent's wife was having any contact with one of his patients.

During her therapy with respondent, BT described various purging rituals, including cleansing her vagina with household chemicals. BT cut herself many times during the course of her therapy with respondent. BT was a very troubled patient with a clinically complex history: unfortunately, respondent's notes shed little light on her treatment.

Respondent states that a field trip to the cemeteries in Burley was a joint idea between BT and himself, intended to aid her in "putting some things together." His interest was to observe her response, and perhaps desensitize things she viewed as frightening. It was a one day trip and they were accompanied by respondent's wife and BT's husband, Golden T. The group spent several hours driving around and they had lunch together. Respondent viewed the trip as therapeutic, and he testified that

after the trip, BT seemed better able to discuss the topics of the trip, but respondent doesn't know whether she was desensitized. Again, there are no notes whatsoever concerning the field trip. Respondent discussed the possible benefits of this treatment with BT, but he did not advise her of any potential risks.

At the first session, in August of 1990, a general history was taken, but respondent didn't want BT's records from Utah, wanting instead to get started right away. BT didn't provide any prior records to him, and BT doesn't know if respondent obtained any. Respondent took a "little general history": BT had already been diagnosed with MPD in California; she had been sexually abused by her brother's friends; and she had been involved with her brother and his friends in a satanic cult. When she first met respondent, BT suspected prior satanic abuse, and it is clear that this was not suggested by respondent. They discussed hypnosis, but she had been told by prior counselor that hypnosis wasn't appropriate with MPD patients, as it was "too suggestive", and respondent agreed not to perform hypnosis.

At the time of the first session with respondent, BT's medications included Atavan and Prozac, but she doesn't recall any of the specifics of the discussion about her medications.

Ultimately, respondent and BT did some hypnotherapy, but there was no informed consent; it just seemed to "progress" from "relaxed states", and took her "unawares", and was never specifically discussed prior to being utilized. The finger tapping process involved BT sitting in a recliner and putting her arms on the rests. Respondent would take her arm and start tapping his fingers, and BT would quickly

go into the relaxed state. This was used every session after it began. It isn't clear whether BT actually knew that she was being hypnotized; respondent referred to it as speaking to the subconscious. The finger tapping sessions were apparently used to address anger.

As therapy progressed, BT stated that she was feeling black inside, seeing blood everywhere, and was getting worse. She stated that she had visions of Christmas trees which were "covered with blood and guts." Sessions went straight to the topic of satanic abuse and, despite her efforts to discuss her sexual abuse and bulimia, those and other issues were not addressed. BT had physical problems due to bulimia, but respondent neither asked about them, nor encouraged her to seek medical attention. During her treatment with respondent, BT's weight dropped to 87 pounds (she is five feet seven inches tall), but respondent never inquired about her weight, any possible dizziness, her heart rate, blood pressure, or sleep patterns, (other than satanic dreams). Respondent never encouraged her to seek medical attention, nor did he ask for a release to talk to her doctor about her treatment.

BT's husband was concerned with her physical health during her counseling with respondent. When she was down to 90 pounds, her diet consisted of puffed rice and diet drinks. Respondent told her husband that BT's diet was due to the satanic experiences, and respondent never encouraged BT's husband to have her seek medical attention for the bulimia.

BT was sexually abused by her brother's friends at age 12, and this was never dealt with in counseling. In BT's mind, any pain she suffered was attributed by

respondent to memories of Satanic abuse inflicted by her grandmother and mother. BT claims that she was been told she had babies killed by forced abortions. She said that she learned of the first baby during counseling sessions with Dr. Johnson, and that her discovery of the second baby occurred during her sessions with respondent.

BT claims that respondent suggested to her that her mother sexually, verbally, physically and satanically abused her, and that respondent suggested her siblings were also abused. BT thinks the only abuse she suffered was from her brother's friends. She stated that her brother "dabbled" in satanic abuse, but didn't belong to any cult *per se*. BT had surgical scars, having had multiple medical problems as a child. Respondent implied that some of her scars from prior medical procedures for her kidney treatments or accidents were actually from satanic abuse. She said that respondent implied that her birthmark was a mark of Satan.

BT had doubts about the memories, and expressed her reservations to respondent. When she denied something had occurred, respondent would talk to Golden T, with whom respondent often discussed BT's care.

Respondent had read articles on Satanism to BT. Respondent gave BT a document entitled *Moon of Hecate the Witch*. He said that she was so steeped in her ideation about the occult that this was given to her to normalize her feelings in that these things go on.

Respondent suggested to BT and her husband that they should attend a seminar on Satanism.

BT began believing that she was evil, had killed babies, and had committed

other atrocities. She didn't believe suicide would give her a way out.

Respondent's "Agency Retrieval Process," used to remove the "structure", was attempted with BT. Respondent hypothesized BT was "pre-programmed" by a cult to keep her from escaping the satanic structure. BT didn't believe this, but was willing to try to find a way out. Respondent said he had tried the process on eight other patients, and it was his own therapy technique. Exhibit 10, the article authored by respondent, was given to BT, her husband, and another friend, after the first attempt. BT felt pressured to accept the new therapy.

The session was lengthy but wasn't completed, since BT "failed", in her words. It began with relaxation, then she began groping, and said that she saw the pyramid, like the one on a dollar bill. BT states that she "removed" two corners of the pyramid, but was unable to complete the process. There is nothing in respondent's progress notes about this session.

There is no dispute that BT stayed with respondent's family for a month in 1991. BT's husband was gone for business, and October was a bad month for her. BT was concerned about staying alone, and BT and respondent's wife, from whom he is now divorced, became good friends. Exhibit 13 documents calls to her husband in Montana while BT lived with respondent's family.

BT described living with respondent and his wife. BT was talented with crafts, and she was afraid of hospitals, so respondent's wife asked BT to stay with them. Respondent admits that he should have objected. However, respondent doesn't think BT was harmed by this. He said that he had no lack of objectivity, kept appointments

with BT at his office, and claims that he conducted no therapy with BT at home. Respondent does admit that he performed positive imagery and relaxation at home, and he acknowledges that he had a dual relationship, but denies that he violated the ethical standards.

BT testified that respondent took notes exclusively on yellow legal pads. BT reviewed Exhibit 5, and testified those are not the notes respondent took during their counseling session. This testimony was virtually identical to that of HB and VN, but BT's husband indicated otherwise. Golden T recalls respondent taking notes on "binder paper", and a "few" on a legal pad. When examined about respondent's notes, which all complainants denied being respondent's notes, Golden T said he thought they looked like the original notes from the therapy sessions.

On June 27, 1991, BT was hospitalized at Columbine Hospital in Colorado. Respondent recalls speaking with a Dr. Wiener at the hospital in Colorado, who said BT was a difficult patient and had eating disorder symptoms. Respondent doesn't recall any treatment strategy recommended. The psycho-social assessment for that hospitalization details a treatment plan, and respondent states that he worked on the recommendations, but there was nothing in respondent's records. While BT signed a release on July 9, 1991, authorizing the hospital to release her records to respondent, his file does not include any of the treatment strategies in the plan developed at Columbine hospital, including an arrangement with the psychiatrist at Columbine, Dr. Lyon, for BT's readmission if the eating disorder was not brought under control; nutritional counseling; involvement with her family; alternative living

situations when her husband was out of town; and a plan to develop a social support group.

The records of a 1991 hospitalization at the Western Institute included an Axis I diagnosis of depression and bulimia, and an Axis II diagnosis of Borderline Personality Disorder, which makes patients more susceptible to boundary conflicts with other people. This essentially made a dual relationship that much more difficult for BT. The respondent did have a dual relationship with BT, knowing she had Borderline Personality Disorder, and knowing that BPD patients have trouble with boundaries in relationships.

Respondent was aware of the temporal lobe seizure diagnosis, but didn't discuss how it would affect her behavior.

Respondent seemed ambivalent about medication for BT's seizures.

Respondent didn't take a detailed medical history from BT. Lithium carbonate made her ill, and when she mentioned this to respondent, he said it was because she was fighting the religious assistance in the form of blessings that he provided to her.

There is no written consent for any treatment in respondent's file for BT. BT never gave consent for respondent to discuss her case with members of his church, his family, or others, except her husband. Despite the lack of consent, respondent's wife participated in the therapy, and respondent also informed members of his church congregation that BT was his patient.

As to all three patients

Respondent doesn't think that his care and treatment of any of the three was

inappropriate. He does admits his documentation was inadequate. Respondent acknowledges that the Board has the responsibility to protect the public, but finds that there is nothing about his care with these patients that should raise that concern. He doesn't think any harm was inflicted, and said that the stress and conflict that his patients experienced is part of the therapeutic process. Respondent states that the three are not characteristic of his patients, and that their testimony too similar, remarkably so. Respondent denied being biased toward emphasizing his patients' possible hidden issues of sexual and satanic abuse, yet he apparently overlooked the underlying issues of rape and possible PTSD, and pursued his theory of sexual and satanic abuse with all three patients.

Dr. James L. Oyler testified before the Board. He has extensive experience in the evaluation of ethical complaints, and currently practices clinical psychology in Boise, Idaho. Dr. Oyler reviewed the complaints and the investigation by the Bureau of Occupational Licenses, concerning possible ethical violations, and he provided expert testimony on the alleged ethical violations.

Dr. Oyler found that the respondent's "Agency Retrieval Process" did not have an adequate scientific foundation for application in a clinical setting.

CONCLUSIONS OF LAW

All references to the ethical standards are to the American Psychological Association (APA) Ethical Principals of Psychologists and Code of Conduct.

I.

APA Standard 4.02(a). Informed Consent to Therapy.

Psychologists obtain appropriate informed consent to therapy or related procedures, using language that is reasonably understandable to participants. The content of informed consent will vary depending on many circumstances; however, informed consent generally implies that the person (1) has the capacity to consent, (2) has been informed of significant information concerning the procedure, (3) has freely and without undue influence expressed consent, and (4) consent has been appropriately documented.

This requirement is designed to keep clients aware and up to date as to psychologist's obligations. Informed consent should be in writing, as 4.02 refers to the consent being "documented". Although a patient's written consent is not absolutely required, the reference to consent being "appropriately documented" in section (4) certainly contemplates that the psychologist's file at least have some written proof that the patient consented. It would be appropriate for a separate consent to be obtained prior to a patient being treated with experimental or research procedures.

The consent should also be in language that is reasonably understandable to participants.

There is no written document or note confirming that any informed consent was obtained from HB, VN, or BT in any of the evidence considered, nor is it reasonably inferred from the testimony of respondent. Respondent's theory that consent can be implied from the patient's return for therapy is unacceptable in this case. Even if that argument can apply in certain situations, there is no evidence to satisfy the requirement that any of the patients were given significant information concerning respondent's procedures, or that they freely expressed consent.

As a result, respondent violated Ethical Standard 4.02 (a) as to all three complainants.

II.

APA Standard 1.07(a). Describing the Nature and Results of Psychological Services.

When psychologists provide assessment, evaluation, treatment, counseling, supervision, teaching, consultation, research, or other psychological services to an individual, a group, or an organization, they provide, using language that is reasonably understandable to the recipient of those services, appropriate information beforehand about the nature of such services and appropriate information later about results and conclusions.

To comply with this provision, the psychologist should obtain detailed information about the patient's medical and psychological history, social status, prescription (especially psychiatric) medications, prior hospitalizations, and prior therapy. The psychologist should then share information with the patient prior to and during treatment. Treatment alternatives should be discussed and, when necessary, referrals should be made to appropriate professionals, service providers, and so forth.

As to HB and VN: information required by this section, including a treatment plan (that is, a plan of therapy, detailing what would be done, and how often, and for what purpose); treatment options; assessment of lethality to self or others; a history of prescription or non-prescription drug use; and a mental health history, including prior hospitalizations or therapy, is absent.

Respondent did not provide complainants with any treatment plans, nor did he review or discuss treatment results or conclusions with them. Respondent did not document any of the requirements of 1.07(a) (nor is it reasonably inferred from any

of the testimony presented) for HB, VN, or BT and respondent therefore violated Ethical Standard Ethical Standard 1.07(a).

III.

4.01 Structuring the Relationship.

- (a) Psychologists discuss with clients or patients as early as is feasible in the therapeutic relationship appropriate issues, such as the nature and anticipated course of therapy, fees, and confidentiality.
- (d) Psychologists make reasonable efforts to answer patients' questions and to avoid apparent misunderstandings about therapy. Whenever possible, psychologists provide oral and/or written information, using language that is reasonably understandable to the patient or client.

This section requires the psychologist to discuss with the patient some idea about the expected course and length of therapy, the focus of therapy, and treatment goals. This should be documented by the psychologist.

As to all patients, it doesn't appear that any treatment alternatives to hypnotherapy or ideomotor signalling were discussed. There is nothing in the record to indicate that the patients were aware of how their problems would be approached in therapy, how much time the therapy would take, what would be expected of them, whether the patients' questions were answered, and how and whether the patients were kept informed during therapy. As a result, respondent violated Ethical Standard 4.01(a) and (d).

IV.

1.23(a) Documentation of Professional and Scientific Work.

Psychologists appropriately document their professional and scientific work in order to facilitate provision of services later by them or by other professionals, to ensure accountability, and to meet other requirements of institutions or the law.

1.24 Records and Data.

Psychologists create, maintain, disseminate, store, retain, and dispose of records and data relating to their research, practice, and other work in accordance with law and in a manner that permits compliance with the requirements of this Ethics Code.

Adequate documentation of therapy sessions is important to organize the psychologist's thinking about the patient, in order to enable the psychologist to reflect, review and reevaluate the course of therapy; to provide a mechanism to protect patient if a transfer of care occurs, to allow the new practitioner to help the patient; and provide for safety for the patient in the unforeseen absence of the psychologist for such reasons as death, relocation, and so on. There is clearly inadequate information in each of these three patient files for a new clinician to be able to see what treatment was provided, to find a diagnosis, or to become familiar with where the patients left off with respondent. This is particularly so with BT, whose lengthy history both prior to and during her counseling with respondent is virtually non-existent in the respondent's notes.

Respondent did not adequately document his intake history, including medical and prior psychological history; the nature and delivery of psychological services; the patient's progress in treatment; or the results of psychological services for HB, VN or BT and, therefore, respondent violated Ethical Standards 1.23 (a) and 1.24.

V.

1.04(c) Boundaries of Competence

In those emerging areas in which generally recognized standards for preparatory training do not yet exist, psychologists nevertheless take reasonable steps to ensure the competence of their work and to protect patients, clients, students, research participants, and others from harm.

This essentially means that psychologists must know the limits of their capabilities, and that a psychologist must be very cautious about dealing with areas where he or she doesn't have adequate training, education and experience. The psychologist should have adequate peer review of any novel procedure to insure a scientific and supportable basis prior to utilization of that new procedure.

Both respondent's file and the evidence at the hearing are completely devoid of any documentation that any steps were taken to insure that the Agency Retrieval Process was understood by the patients; supported by scientific evidence; that the risks of such therapy were communicated to the complainants; or that respondent was competent from a professional standpoint to administer treatment under the Agency Retrieval Process and, as a result, respondent violated Ethical Standard 1.04(c).

VI.

1.14 Avoiding Harm.

Psychologists take reasonable steps to avoid harming their patients or clients, research participants, students, and others with whom they work, and to minimize harm where it is foreseeable and unavoidable.

Respondent's files do not document that he took reasonable steps to protect

any of the complainants from harm, and the harm does not have to be proven, or validated by a mental health professional, in order for a violation to exist: it is the psychologist who must *take reasonable steps* to avoid harm, regardless of whether a complainant can prove a tort or establish damages in a disciplinary hearing. Although complainants provided genuine testimony that they suffered harm by respondent's treatment, that isn't determinative as to a violation of this ethical standard.

The entire record, not just the respondent's files, is again devoid of any evidence that respondent took any precautions to prevent harm to the three complainants prior to engaging in the therapy which resulted in retrieval of memories, actual or otherwise. Respondent failed to ever discuss the reporting problems presented by HB (rape by teenage boys), VN (the rape at age 14), or BT (abuse from her brother's friends). As a result, the respondent violated Ethical Standard 1.04(c).

VII.

1.06 Basis for Scientific and Professional Judgments

Psychologists rely on scientifically and professionally derived knowledge when making scientific or professional judgments or when engaging in scholarly or professional endeavors.

Respondent did not have enough scientifically or professionally based knowledge to conclude that the complainants HB and VN had been sexually and satanically abused by members of their families, therefore, respondent violated Ethical Standard 1.06.

Respondent did not have adequate scientific and professionally derived

knowledge to utilize the Agency Retrieval Process in the course of his treatment of the complainant BT and, thus, he violated Ethical Standard 1.06.

VIII.

1.15 Misuse of Psychologists' Influence.

- (a) Psychologists do not participate in activities in which it appears likely that their skills or data will be misused by others, unless corrective mechanisms are available.
- (b) If psychologists learn of misuse or misrepresentation of their work, they take reasonable steps to correct or minimize the misuse or misrepresentation.

A licensed psychologist exercises great influence over the life of a patient, and must be acutely aware of the potential for misuse of this power. Respondent encouraged the patients to confront their families concerning their retrieved memories of past abuse, which were discovered during the counseling process. The memories or recollections retrieved during the counseling process of each of the three patients lacked the reliability necessary to prudently encourage disclosure to others, especially family members, given the predictable emotional upheaval that would follow from such disclosure: respondent violated Ethical Standard 1.15.

IX.

1.17(a) Multiple Relationships.

In many communities and situations, it may not be feasible or reasonable for psychologists to avoid social or other nonprofessional contacts with persons such as patients, clients, students, supervisees, or research participants. Psychologists must always be sensitive to the potential harmful effects of other contacts on their work and on those persons with whom they deal. *A psychologist refrains from entering into or promising another personal, scientific, professional, financial, or other relationship with*

such persons if it appears likely that such a relationship reasonably might impair the psychologists's objectivity or otherwise interfere with the psychologist's effectively performing his or her functions as a psychologist, or might harm or exploit the other party. (Emphasis added).

The psychologist and patient relationship should be safe, private, and free from factors that constrain people from being candid. Respondent's own admissions clearly demonstrate the dual relationship with BT, despite his opinion that it did not impair his objectivity or result in any harm. As with Standard 1.14, proof of harm to a patient is not essential for a psychologist to violate this standard. A dual relationship is violated if harm *might* harm or exploit the patient.

Respondent's actions in allowing BT to live in his home are a blatant example of a dual relationship. Respondent's motives were admirable, but his judgment was not. Respondent treated BT for years with no compensation, and undoubtedly spent countless hours attempting to help BT. There is a dispute about whether BT actually suffered harm: this is an issue that the Board need not address, since there are other forums in which to resolve the issue. What is clear is that respondent allowed himself become too close to BT's care. Respondent violated Ethical Standard 1.17 (a) by engaging in a dual relationship with BT.

X.

1.04(c) Boundaries of Competence.

In those emerging areas in which generally recognized standards for preparatory training do not yet exist, psychologists nevertheless take reasonable steps to ensure the competence of their work and to protect patients, clients, students, research participants, and others from harm.

2.02 Competence and Appropriate Use of Assessments and Interventions.

(a) Psychologists who develop, administer, score, interpret, or use psychological assessment techniques, interviews, tests, or instruments do so in a manner and for purposes that are appropriate in light of the research on or evidence of the usefulness and proper application of the techniques.

The risks for the patients are greater in newly developing areas of psychological research and treatment, and a psychologist should be more careful of potential danger to patients. Respondent's Agency Retrieval Process, as explained in his article on the removal of "structure," contemplates that certain individuals have implanted structures within their heads as a result of traumatic experiences, and the removal of these structures results in the removal of a multitude of psychological problems. This is clearly an "emerging area" as defined by 1.04(c).

No date appeared on the paper which explained respondent's concepts. Many new theories and concepts were raised, and there was no references that indicated any earlier work, as is typical of any work prepared for scientific consumption. Although respondent indicated he wasn't concerned with publication, he certainly contemplated the delivery of clinical services utilizing this theory.

Respondent assumed that "organized" abuse exists, without adequate scientific basis.

There was no foundation for the premise that a "structure" actually exists, yet respondent created a treatment procedure to remove it.

The respondent's paper and his testimony did not provide any foundation for why ideomotor signalling would be the method of "communicating" with the "system"

to remove the structure.

Respondent's Agency Retrieval Process is very suggestive. There was an implicit *idea* that something exists, but the patient was asked to look something which *may not* exist. (At least, there is no scientifically based foundation for concluding that it exists). The respondent's article seems to suggest to the patient what she should look for, and the evidence indicates that, during the treatment process, respondent then suggests to the patient what to look for. The report even refers to instructions to the patient about the structure, which suggest what should be there: the paper states that there is a structure in the head which exerts itself against the patient, and which serves to oppress and control the patient. The structure is something foreign that works to limit the patient's freedom. All of this is leading, and implants an idea in the patient's mind.

Respondent's paper seems to imply that there is a research study, yet there is clearly inadequate foundation for any study on the concepts developed by respondent. There was not adequate theoretical foundation for the concepts announced by respondent. There was no procedure for peer review of the Agency Retrieval Process.

Express informed consent is necessary for any patient who is treated with this procedure since it is clearly experimental. No express approval was obtained from BT.

Respondent's paper was released in late 1994, but the treatment utilizing his process with BT occurred in 1993.

As a result of the foregoing, respondent violated 1.04(c) and 2.02 regarding BT by utilizing the Agency Retrieval Process as a treatment modality with BT.

ORDER

After considering the foregoing findings of fact and conclusions of law, Respondent's license is hereby suspended for three (3) years from the date of this Order; this suspension will extend to include any practice by Respondent either as a psychology intern, a psychologist-in-training, a psychologist under supervision and/or as a service extender.

At the expiration of the three years' suspension, Respondent may apply to the Board for reinstatement of his license. The reinstatement process may begin, following Respondent's completion of the following conditions:

1. Respondent's satisfactory completion of a minimum of 24 semester hours (or the equivalent quarter hours) of graduate level course work in the following:
 - a. Ethics, record keeping, and boundaries between the psychologist and clients;
 - b. Memory and learning, and basic principals of recall and suggestive techniques in psychotherapy; and
 - c. Interpersonal relationships in psychotherapy, transference, the dynamics between patient and therapist, and issues of power and influence that the psychologist inherently has over patients.
2. Respondent must receive prior approval by the Board as the both the institution and course work for which he is seeking credit. After completion of the course work, Respondent will provide certified transcripts to the Board.
3. Respondent must undergo individual psychotherapy at his own expense, focusing on the need for separating personal values and beliefs from patient treatment. Prior to undertaking the psychotherapy, the Board must receive and approve a copy of the proposed treatment plan; during the course of psychotherapy, the Board must receive periodic

Findings, Conclusions and Order, page 45.

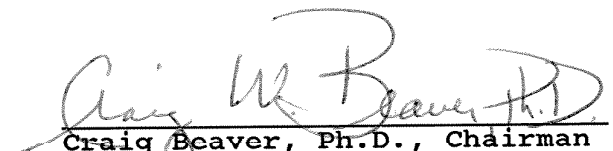
progress reports from the psychotherapist. If, after successful completion of the course of psychotherapy, Respondent is found by the Board or the treating psychotherapist to be unable to function independently and/or safely as a psychologist in public or private practice, he shall be barred from practice.

4. Respondent shall execute a release of information allowing the Board to obtain access to any information it deems relevant to effectuating the terms of this order.

As a part of the reapplication process, and only after the preceding conditions have been met, Respondent must begin and satisfactorily complete a two year program of supervision as a psychology intern or as a psychologist-in-training. Both the supervisor and the site of the supervised practice must receive pre-approval by the Board. Successful completion of this two year program of supervised practice will be a prerequisite to Respondent's subsequent reinstatement without restriction.

The Board hereby retains permanent jurisdiction over this proceeding until all matters are finally resolved as set forth in this Order.

DATED: This 1st day of July, 1996.


Craig Beaver, Ph.D., Chairman
Board of Psychologist Examiners